


# FLORIDA HIGHWAY PATROL POLICY MANUAL

	<b>SUBJECT</b> DISCIPLINE	<b>POLICY NUMBER</b> 8.02
		<b>ISSUE DATE</b> 02/01/96
	<b>APPLICABLE CALEA STANDARDS</b> 26.1.4, 26.1.5, 26.1.6, 26.1.8	<b>REVISION DATE</b> 05/01/09
		<b>TOTAL PAGES</b> 6

## 8.02.01 PURPOSE

To provide guidance to management when imposing disciplinary action pursuant to a sustained allegation of misconduct.

## 8.02.02 AUTHORITY

Policy #3.06, DHSMV Management Manual  
Policy #5.07, DHSMV Management Manual  
Section 110.227, Florida Statutes  
60K-9.0043, Florida Administrative Code

## 8.02.03 POLICY

The Florida Highway Patrol may impose disciplinary action for improper conduct or behavior that violates state laws or Department or Division policies. Disciplinary action will be imposed in a manner that is fair and consistent for all employees. Minor work deficiencies or non-repetitive violations of Division directives will be handled through coaching, counseling, and training.

## 8.02.04 DEFINITION

**DISCIPLINARY ACTION** - An action taken by a supervisor to correct an employee's conduct/behavior that violated an offense listed in the Department's Management Manual, Policy 3.06, Disciplinary Process.

## 8.02.05 OBJECTIVES

- A. To provide procedures to ensure the fair and consistent application of discipline.
- B. To provide guidelines for employees wishing to appeal any disciplinary action which may have been imposed.

## 8.02.06 RESPONSIBILITIES

- A. The Director of the Office of Professional Compliance shall maintain all records of disciplinary action. A periodic audit of disciplinary records will be provided to

Regional Commanders and Troop Commanders to assist in providing uniformity and consistency of discipline. This audit will be statistical in nature and will not contain the names of employees that have been disciplined.

- B. Regional Commanders will be responsible for providing oversight of discipline on a statewide basis and ensuring that disciplinary action is being administered uniformly and consistently.

## **8.02.07 PROCEDURES**

### **A. DISCIPLINARY AUTHORITY**

Supervisors should attempt to resolve work deficiencies through coaching, counseling and training and should be proactive in recognizing problems. Corrective action such as coaching, training or counseling will not be construed as disciplinary action.

1. Specific disciplinary authority afforded each level of supervision can be found in the Supervisor Assistance System located on the HSMV Intranet website.
2. Involuntary transfers will not be used for disciplinary purposes. However, such transfers may be used when it is deemed to be in the best interest of the Department and the member.

### **B. DISCIPLINARY ACTION**

1. When disciplinary action is necessary, the action shall be in accordance with the requirements of the DHSMV Management Manual, Policy 3.06, Disciplinary Process and Section 110.226, Florida Statutes.
2. Supervisors should suggest that a member consider contacting the Department's Member Assistance Program in situations where a member's misbehavior can be corrected through utilization of those services.
3. When it is necessary to administer disciplinary action, a supervisory referral to the Department's Member Assistance Program should be considered, if the nature of the offense indicates that such referral may deter future violations.
4. In an effort to ensure uniformity, consistency and fairness in handling allegations of misconduct; supervisors are to use the Supervisor Assistance System throughout each investigation and review process.
5. In determining the severity of any disciplinary action, troop supervisors should take into consideration mitigating or aggravating factors that should include, but not be limited to:

- a. The seriousness of the conduct as it relates to the employee's duties and responsibilities.
  - b. Action taken with respect to similar conduct by other employees.
  - c. The previous employment record and disciplinary record of the employee.
  - d. Extraordinary circumstances beyond the employee's control.
- 6. The Department has established a "forgiveness" policy, whereby past transgressions will be forgiven for the purpose of progressive discipline, provided the time period for each category of disciplinary action is met or exceeded. Specific forgiveness policy guidelines can be found on the Supervisor Assistance System.
- 7. Agency Vehicle Crashes
  - a. Upon reviewing the circumstances surrounding a traffic crash that occurred in an agency vehicle, the department may require training to reinforce an employee's driving knowledge and skills.
  - b. Chargeable Crashes with Agency Vehicle, alternative action: Should an employee sustain a first more serious clear-cut violation or a third minor violation within three years, the employee may elect alternative action of a counseling session and attendance in a driver's training course which will substitute for the disciplinary action. The alternative action selected is voluntary, will be recorded in the employee's personnel file, and will be used for progressive disciplinary action if a further violation recurs within the three-year period. The driver's training course must be completed within 45 days from the date that the employee elects the alternative action.
- 8. Complaints against employees that allege criminal violations will be grounds for bringing criminal charges if the evidence warrants. The criminal action will not serve to preclude the internal disciplinary process from dealing with the same matter concurrently.

#### C. DISCIPLINARY ACTION REVIEW

- 1. A supervisor may issue an oral or written reprimand only after consulting with a member of higher rank within the supervisor's chain of command.
- 2. In the event the complaint is sustained and the disciplinary action is a suspension of 24 hours or less, the Troop Commander will initiate a review of the complaint and recommendations, through the Office of General Counsel and the Office of Employee Relations, prior to serving the Notice of Proposed Action on the employee. Prior to serving the employee with a proposed suspension of 8-24 hours, the Troop

Commander will notify the appropriate Regional Commander of the proposed and final action.

3. When the recommended disciplinary action for the offense exceeds a 24 hour suspension, it will be the responsibility of the Troop Commander to ensure that a draft Notice of Proposed Action is attached to the complaint file before approval and forwarding to the Regional Commander. The draft notice will be clearly marked as such. Any member of the troop chain of command who disagrees with the proposed action shall make his/her recommendation in writing and give a brief explanation for the recommendation. Any such recommendations shall be attached to the complaint file to be forwarded to the Regional Commander.
4. In all complaint investigations involving a recommendation from the Troop Commander for disciplinary action greater than 24 hours suspension, it is the responsibility of the appropriate Regional Commander to review the investigation report and recommendations, and to facilitate a review of the complaint with the Office of General Counsel, the Office of Employee Relations, and the Director.

#### D. NOTICE OF PROPOSED ACTION

1. In the case of a proposed suspension or dismissal action, the Troop Commander will ensure, when practical, that a supervisor personally serves a copy of the Notice of Proposed Action to the employee.
2. The supervisor serving the notice will record, on the second copy, the time, date and place the notice was served and sign the notice. A copy will then be placed in the complaint file.
3. When disciplinary action of a suspension or dismissal is proposed, the Notice of Proposed Action shall follow the format contained in the Supervisor Assistance System.
4. The Notice of Proposed Action will contain notice of the right of the employee to have access to a predetermination conference to answer, orally or in writing, the allegations. The instructions for requesting the conference will be contained in the notification to the employee of the proposed action to suspend or dismiss. It will be the responsibility of the employee to request a predetermination conference, if desired, within five working days of the date the notice was served by the supervisor.
  - a. The five working day period will begin on the employee's next regular workday after the notice is served.
  - b. Requests for a predetermination conference must be submitted in writing by the employee directly to:

- (1) The Troop Commander, and received by the Troop Commander within the specified time, if the employee is assigned to a field troop.
- (2) The appropriate Lieutenant Colonel or Regional Commander within the employee's chain of command, if the employee is assigned to Troop Q.

#### E. PREDETERMINATION CONFERENCE

1. Any predetermination conference will be held in accordance with Rule 60K-9.0043, Florida Administrative Code.
2. Should a predetermination conference be requested, the Troop Commander will schedule the conference in a timely manner. The Troop Commander will assure that the conference officer has a complete file to review prior to the conference. At the conclusion of the conference, the conference officer will commit his/her findings to writing and forward them directly to the Troop Commander or the appropriate Regional Commander. The findings of the conference officer should indicate whether any new or additional information was presented which could affect the agency's decision.
3. If the employee does not request the predetermination conference, or if the employee does not present any factors to cause the Department to modify or change its proposed action, the Notice of Final Action shall be issued by the troop or GHQ as appropriate.

#### F. NOTICE OF FINAL ACTION

1. As provided by Rule 60K-9.0044, Florida Administrative Code, an employee shall be given written notification by certified mail, returned receipt requested, or when possible, personal delivery of the Division's decision to proceed with a suspension or dismissal.
2. The Notice of Final Action will follow the format contained in the Supervisor Assistance System and state the effective date of the suspension or dismissal.
3. Such notice shall be delivered within five workdays from the date the action is effective.
4. The instructions for appealing or grieving the action shall be contained in the notification to the employee of the action to suspend or dismiss.
5. A statement as to the content of the employee's employment record relating to a dismissal will be included in the final action letter.
6. The Bureau of Personnel Services will provide a statement of the status of fringe and retirement benefits to any employee dismissed from service.

G. APPEALS AND GRIEVANCES

Availability of appeals and grievances and applicable procedural guidelines can be found in Policy #5.07, DHSMV Management Manual and the most recent Collective Bargaining Agreement.